

# LOCAL AGENCY FORMATION COMMISSION COUNTY OF SAN BERNARDINO

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**DATE:** JANUARY 6, 2006

**FROM:** MICHAEL TUERPE, LAFCO Analyst

**TO:** LOCAL AGENCY FORMATION COMMISSION

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**SUBJECT: Agenda Item #9 – LAFCO 3004 -- City of Upland Annexation No. 61 (Southwest Island)**

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**INITIATED BY:**

City Council Resolution, City of Upland

**RECOMMENDATION:**

Staff is recommending that the Commission:

1. Adopt the statutory exemption that has been recommended for this proposal, and direct the Clerk to file a Notice of Exemption within five (5) days of this action.
2. Approve LAFCO 3004 -- City of Upland Annexation No. 61 as an island annexation, as defined in Government Section 56375.3, with the following conditions:
  - a. All streetlights currently the responsibility of CSA SL-1 within the annexation area shall be transferred to the City of Upland upon successful completion of the annexation. The County Special Districts Department shall prepare the appropriate documentation to transfer the lights, LAFCO staff shall verify the data, and the City of Upland shall sign the authorization form requesting Southern California Edison to transfer the specific lights to the City of Upland accounts prior to issuance of the Certificate of Completion.
  - b. Standard terms and conditions that include the “hold harmless” clause for potential litigation costs and the identification that the

transfer of utility accounts will occur within 90 days of the Certificate of Completion.

3. Waive the protest proceedings, as authorized by Government Code Section 56375.3.
4. Adopt LAFCO Resolution #2905 setting forth the Commission's findings and determinations concerning this proposal.

**BACKGROUND:**

LAFCO 3004 proposes the annexation of an unincorporated island located in the southwestern portion of the City of Upland's sphere of influence. The annexation, as initiated by the City, includes a total of 122.3+/- acres generally located east of Central Avenue, and north and south of 11<sup>th</sup> Street. The area is totally surrounded by City boundaries and is generally bordered on the north by a combination of parcel lines and Foothill Blvd.; on the east by parcel lines and Benson Avenue; on the south by a combination of parcel lines, Arrow Route, and 11<sup>th</sup> Street; and on the west by a combination of parcel lines and Central Avenue. Location and vicinity maps are included as Attachment #1 to this report.

**ISLAND ANNEXATION DETERMINATIONS:**

In staff's view, this proposal is a ministerial action for the Commission. This position is based upon Government Code Sections 56375(a) to 56375.5 that require the Commission to approve the annexation of island territory if several basic determinations are made concerning the size of the island, the configuration of city boundaries, the lack of prime agricultural land within the island area, the presence of development in the area, and the ability of the study area to benefit from the use of municipal services from the City. Government Code Sections 56375 to 56375.5 are included as Attachment #2.

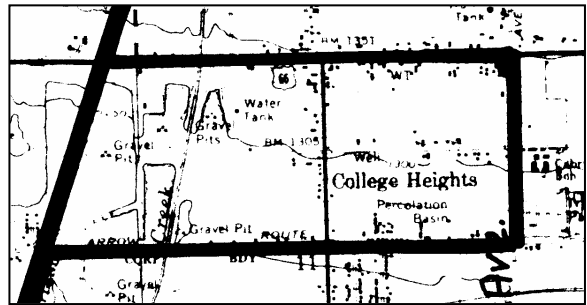
In addition, if the Commission makes the statutory determinations for LAFCO 3004, as outlined below, then State law eliminates the protest provisions for landowners and registered voters and directs the waiver of the protest proceedings, as authorized by Government Code Section 56375.3:

- The study area is less than 150 acres, and consists of the entire island of unincorporated territory.
- The study area is entirely surrounded by the City of Upland, and is within the City of Upland's sphere of influence.

- The study area is substantially developed or developing, based on determinations that there is the availability of public services, there is the presence of public improvement in the area, and there is physical improvement on many, if not most, of the properties.
- There is no prime agricultural land within the study area.
- The study area has benefited, and will benefit, from the availability of municipal services from the City of Upland.

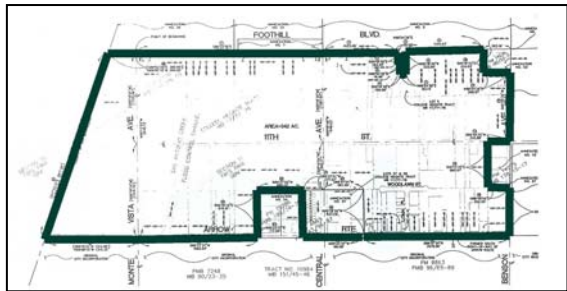
According to Government Code Section 56375.4, “the authority to initiate, conduct, and complete any proceeding pursuant to subdivision (a) of Section 56375.3 does not apply to any territory that, after January 1, 2000, became surrounded or substantially surrounded by the city to which annexation is proposed” (see Attachment #2).

The island in its present form is a portion of the “College Heights” island which was formed over 30 years ago. The former island was bordered by the City on the north, east, and south, and the County line on the west (See Figure 1).



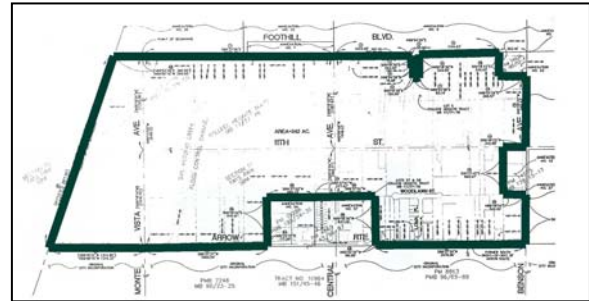
**Figure 1. 1972**

Since January 1, 2000 (See Figure 2) the “College Heights” island has been reduced three times:



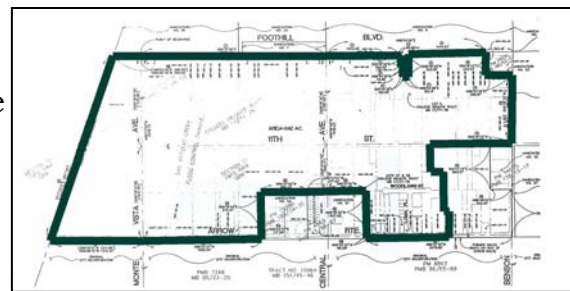
**Figure 2. January 1, 2000**

- LAFCO 2936 in 2003 for 13.34+/- acres; east and west of Central Avenue and north of Arrow Route (See Figure 3);



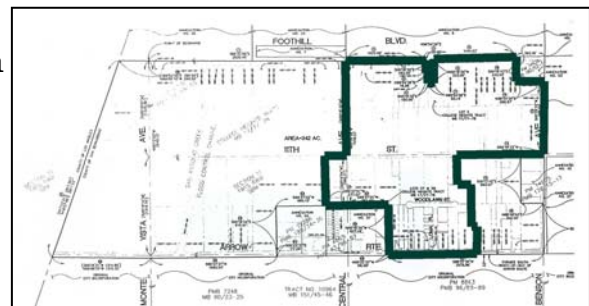
**Figure 3. 2003**

- LAFCO 2962 in 2004 for 26.55+/- acres; north of Arrow Route, south of 11<sup>th</sup> Street, and west of Benson Avenue (See Figure 4); and



**Figure 4. 2004**

- LAFCO 2978 in 2005 for 193+/- acres; generally east of the County line, south of Foothill Boulevard, west of Central Avenue, and north of Arrow Route (See Figure 5).



**Figure 5. 2005**

Based upon these determinations, it is staff's position that this island was created prior to January 1, 2000 and is currently totally surrounded by the City. Therefore, this proposal meets the requirements of Government Code Section 56375.4.

In addition, on March 31, 2005 LAFCO adopted Policy No. 29 which requires, "...that a City proposing to initiate an island annexation proposal shall have conducted a public relations effort within the area prior to the adoption of its resolution of initiation." The City fulfilled this requirement with a community meeting on July 26, 2005 regarding this annexation proposal. LAFCO Policy No. 29 and the City public relations packet regarding the meeting are included as Attachment #3.

Also, staff has provided notices to landowners and registered voters within the annexation area (totaling 157) and surrounding the annexation area (totaling 1,421), notifying them of the Commission's consideration. To date staff has received one written protest on this proposal from a landowner, and the protest is included as Attachment #4 to this report.

Staff suggests that, in its view, these findings are clear; therefore, the Commission is required by Government Code Section 56375.3 to approve this annexation and waive the protest proceedings.

As previously stated, in staff's view, this proposal is a ministerial action, and the Commission is required to approve this proposal if it makes the mandatory determinations outlined above. The following is information which staff provides with all annexation proposals.

#### **LAND USE:**

The study area is currently a mix of developed and vacant lands. Developed lands include mixed-use commercial and residential development, and industrial. It is surrounded by commercial and industrial uses on the north; commercial, industrial, vacant, and residential uses on the east; multi-family residential, commercial, and vacant uses to the south; and industrial, commercial, and vacant uses to the west.

The City's General Plan land use designation for the area is Commercial/Industrial-Special Purpose (C/I-S) – permitting commercial and industrial uses with a Special Purpose provision to encourage economic development and to expand the job base. The current County land use designations for the annexation area are General Commercial (CG), Service Commercial (CS), and Community Industrial (IC). The land use determinations between the City and County are generally compatible.

The City has pre-zoned the annexation area: 1) Light Industrial (ML) – permitting industrial uses of materials already in the processed form and with a limited range of retail commercial use, and 2) Highway Commercial (CH) – serving many purposes related to the highway or to other drop-in types of trade including commercial shops and integrated commercial and multi-family residential developments. These pre-zone designations were determined through adoption of City of Upland Resolution No. 5715 and are consistent with the City's General Plan designation.

#### **PLAN FOR SERVICE:**

The City of Upland has submitted a plan for municipal services as required by law, and the plan is attached to this report for Commission review as a part of Attachment #5. In general, the Plan identifies the following:

- Much of the area proposed for annexation is currently on septic systems. Since the 1994 statutory requirement for LAFCO to review service contracts, only two service contracts for sewer have been approved within the proposed area: 653 N. Central Avenue (APN 1007-301-11) and 1721 W. 11<sup>th</sup> Street (APN 1007-081-08). The City charges unincorporated areas 1.5 times the in-city rate for sewer service, and upon annexation sewer service will be charged the in-city rate. There will be no effect on existing septic system users in the unincorporated area, except for septic system failures and expansion projects which would require sewer service. New developments may be required to connect to the City's sewer system, where sewer lines are available, and will be extended at property owner's expense.
- Water service is currently provided by the City of Upland to the properties within the annexation area. Upon annexation the monthly charges will be cut by one-half and property owners within the area will be able to participate in the City's Water Conservation Program.
- Fire protection and paramedic services are currently provided by County Service Area 38. The closest County station is Station #12, located at 24<sup>th</sup> Street and Euclid Avenue, approximately 4.5 miles away from the area, and with an approximate 6 ½ minute response time for 911 calls. Also, the City and the County have mutual aid agreements, but not automatic aid agreements.

Upon annexation, the City of Upland Fire Department will assume responsibility for serving the area. The closest City fire station is Station #3, located at 1350 North Benson Avenue, approximately one mile away from the area, and with an approximate 3-5 minute response time for 911 calls. The City has automatic aid agreements with the cities of Montclair, Chino, Ontario, Rancho Cucamonga, and Claremont. Paramedic services are included on all City engine companies. County Fire supports this proposal as it will provide a quicker response time to the area.

- Law enforcement will shift from the County Sheriff's Department to the City of Upland Police Department. The County Sheriff substation is located in the City of Chino, approximately 7.5 miles from the annexation area.

Upon annexation, the City of Upland will assume responsibility for serving the area. The City of Upland Police Department is located at 1499 West 13<sup>th</sup> Street, near the corner of 13<sup>th</sup> Street and Benson Avenue, approximately one mile from the area. Upland Police have a response time of less than 5 minutes for Priority One calls (high priority, emergency, and serious crimes in progress). Additional officers will be required to increase beat patrol.

- For refuse collection, there will be no change in the current provider, Burrtec Waste Industries. Currently, residential rates are \$19.13 per month and commercial rates start at \$57.29 per month. Upon annexation, residential rates will be \$21.50 per month and commercial rates will start at \$71.45 per month. The increase in rates is due to City plans to move towards a franchise system from a permit system in order to integrate commingled recycling, green waste recycling, and household hazardous waste programs.
- Library service will be provided by the City of Upland Public Library.
- Upon annexation, businesses in the affected area will be required to obtain a City Business License. Commercial/retail business licenses are based upon gross receipts, and all license fees are not to exceed \$864.00 per year.

As required by Commission policy and State law, the Plan for Service submitted by the City of Upland shows that the extension of its services will maintain, and/or exceed, current service levels provided through the County and identifies that services are currently available within the area.

### **ENVIRONMENTAL:**

The Commission's environmental consultant, Tom Dodson and Associates, has reviewed this island annexation proposal and recommends that it is statutorily exempt from the California Environmental Quality Act (CEQA). This recommendation is based on the finding that the Commission's approval of this application is a ministerial action, as the Commission has no discretion, and is therefore exempt from the requirements of CEQA, as outlined in the State CEQA Guidelines, Section 15268. A copy of Mr. Dodson's recommendation is included for the Commission's review as Attachment #6.

### **FINDINGS:**

The following findings are required to be provided by Commission policy and Government Code Section 56668 for any change of organization/reorganization proposal:

1. The Registrar of Voters has determined that the study area is legally inhabited, containing 53 registered voters within the area as of December 13, 2005.
2. The proposed annexation area is within the sphere of influence assigned for the City of Upland.
3. The County Assessor has determined that the value of land and improvements within the annexation area is \$58,763,693 (\$20,026,109 - value of land; \$38,737,584 -- value of improvements).
4. Legal advertisement of the Commission's consideration has been provided through publications in the *Inland Valley Daily Bulletin* and the *Sun*, newspapers of general circulation in the area.
5. Individual notice has been provided to registered voters and landowners within the annexation area (totaling 157), and to all voters and landowners located within roughly 1,350 feet of the exterior boundaries of the annexation site (totaling 1,421) in accordance with State law and adopted Commission policies.
6. To date, written opposition to this proposal has been received from one landowner (See Attachment #4).
7. The City of Upland has pre-zoned the study area for Highway Commercial (CH) and Light Industrial (ML) uses. These zoning designations conform with the Commercial/Industrial Special Purpose (C/I-S) designation for the area as reflected on the City of Upland's General Plan map. The pre-zone designations are consistent with the existing land use for the area, and these designations will take effect upon annexation. Pursuant to the provisions of Government Code Section 56375(e), the pre-zoning designation shall remain in effect for two years following annexation unless specific actions are taken by the City Council.
8. The Commission's Environmental Consultant, Tom Dodson and Associates, has reviewed this island annexation proposal and recommends that it is statutorily exempt from the California Environmental Quality Act (CEQA). This recommendation is based on the finding that the Commission's approval of this application is a

ministerial action, as the Commission has no discretion, and is therefore exempt from the requirements of CEQA, as outlined in the State CEQA Guidelines, Section 15268. A copy of Mr. Dodson's recommendation is included for the Commission's review as Attachment #6.

9. The area in question is presently served by the following local agencies:

County of San Bernardino  
County Service Area 38  
County Service Area 70  
Inland Empire West Resource Conservation District  
Chino Basin Water Conservation District  
Metropolitan Water District of Southern California  
Inland Empire Utilities Agency and its Improvement District C

County Service Area 38 and County Service Area 70 will be detached from the area upon successful completion of the annexation as required by Government Code Section 25210.90. No other agencies will be affected by this proposal as they are regional in nature.

10. Upon annexation, the City will extend its services as required by the progression of development. The City of Upland has submitted a plan for the extension of municipal services to the study area and certified the adequacy of the Plan, as required by law. The financial information presented within the Plan for Service indicates that the extension of services can be maintained and operated through the existing revenue resources available through the transfer of property taxes, utility rates, and fees for service. The Plan for Service indicates that the City can, at a minimum, maintain the level of service delivered and can improve the level and range of selected services currently available in the area. (See Attachment #5).

As a condition of approval, streetlighting responsibilities currently paid by CSA SL-1 shall transfer to the City upon successful completion of the annexation.

11. The developing portion of the study area can benefit from the availability and extension of municipal services from the City of Upland. The currently developed properties within the area proposed for annexation have benefited from the receipt of City water service and some have benefited from the receipt of City sewer service through out-of-agency service contracts.

12. The annexation proposal complies with Commission policies and directives and State law that indicate the preference for all island areas to be included within the boundaries of the City surrounding them.
13. This proposal will not assist in the City's ability to achieve its fair share of the regional housing needs as there is no residential component to the land uses anticipated for the area.
14. The County of San Bernardino and the City of Upland have successfully negotiated a transfer of property tax revenues that will take effect upon completion of this annexation. This negotiated agreement fulfills the requirement of Section 99 of the Revenue and Taxation Code.
15. The map and legal description, as revised, are in substantial compliance with LAFCO and State standards through certification by the County Surveyor's Office.

#### **CONCLUSION:**

It is the staff's position that LAFCO 3004 is essentially a ministerial action on the basis that the Commission is required by Government Code Section 56375(a) to approve this proposal. In addition, if it makes the mandatory determinations outlined in Section 56375.3, no protest will be allowed. We believe those findings are easily made in this case:

- The study area comprises a total of 122.30+/- acres, which makes the island less than the 150 acre threshold;
- The study area is entirely surrounded by the City of Upland, and the study area is wholly within the City of Upland's sphere of influence;
- The area is substantially developed or developing based on the presence of existing development in the area and the availability of public services as indicated in the Plan for Service;
- The area does not contain any prime agricultural land; and
- The area can benefit from the availability of municipal services from the City of Upland as reflected in the Plan for Service.

Also, this proposal complies with Government Code Section 56375.4 because the island was created prior to January 1, 2000 and is currently surrounded by the City. The island in its present form is a portion of the "College Heights"

island which was formed over 30 years ago. The former island was bordered by the City on the north, east, and south, and by the County line on the west. Since January 1, 2000 its size has been reduced three times.

In addition, this proposal complies with LAFCO Policy No. 29 because the City conducted a public relations effort prior to adoption of its resolution of initiation.

If the Commission concurs with these staff determinations, then it is required to approve this proposal and waive the protest hearing as part of its approval of this application, regardless of any protest that might be submitted for this item.

Attachments:

1. Vicinity Maps and Annexation Area Map
2. Government Code Sections 56375 to 56375.5
3. LAFCO Policy No. 29 and City Public Relations Packet
4. Protest Letter from a Landowner
5. City of Upland's Application and Plan for Service
6. Response from the Commission's Environmental Consultant, Tom Dodson of Tom Dodson and Associates
7. Draft Resolution #2905